

The Honorable James L. Robart

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

EARL BEARD and ALEXIS LOPEZ, CRAIG BAHAM, and ROBERT VAN HORN,

Plaintiffs,

v.

ECOLAB, INC.,

Defendant.

Case No. 2:17-cv-00663-JLR

**JOINT MOTION TO APPROVE
SETTLEMENT AND DISMISS CASE**

Plaintiffs Craig Baham and Robert Van Horn (“Plaintiffs”) and Defendant Ecolab Inc. (“Ecolab”), by and through their respective undersigned attorneys, hereby jointly move this Court to approve the terms of their settlement and to dismiss this case with prejudice. In support of their Motion, the Parties states as follows:

1. On April 27, 2017, Earl Beard and Alexis Lopez filed this lawsuit against Ecolab alleging claims under the Fair Labor Standards Act (“FLSA”), the Washington Minimum Wage Act (“WMWA”), and the New York Labor Law (“NYLL”). Dkt. No. 1.

2. On May 3, 2017, Craig Baham and Robert Van Horn filed consents to join the lawsuit. Dkt. No. 7. On June 29, 2017, Plaintiffs filed a First Amended Complaint that added Baham and Van Horn as additional named Plaintiffs. Dkt. No. 19. Baham's employment with

**JOINT MOTION TO APPROVE SETTLEMENT
AND DISMISS CASE - 1**

Case No. 2:17-cv-00663-JLR

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1 Ecolab ended in December 2012, and Van Horn's employment with Ecolab ended in January
2 2014. Docket Nos. 19 and 22, ¶¶ 24 and 28.

3 3. On June 20, 2017, Ecolab served Defendant's Offer of Judgment Pursuant to Fed.
4 R. Civ. P. 68 to Beard and Lopez. Dkt. No. 23. On July 18, 2017, Ecolab filed their Notice of
5 Acceptance of Defendant's Offer of Judgment dated July 5, 2017. Dkt. No. 24. On July 25,
6 2017, the Court entered an order dismissing Beard's and Lopez's claims with prejudice pursuant
7 to the Offer of Judgment and Notice of Acceptance. Dkt. No. 25.

8 4. Although Ecolab denies Plaintiffs' allegations, the Parties engaged in settlement
9 negotiations. On October 25, 2017, the Parties reached a settlement. Under the terms of the
10 settlement, Plaintiffs will release all wage and hour claims, whether under the FLSA, WMWA,
11 and NYLL, and attorneys' fees and costs. Plaintiffs have agreed to dismiss their lawsuit with
12 prejudice.

13 5. The Parties have prepared and executed a written Settlement Agreement and
14 General Release ("Agreement") that memorializes the terms of their settlement, which includes a
15 requirement that the Court approve the settlement.

16 6. The Parties hereby seek the Court's approval of the settlement they reached in this
17 matter, and stipulate to the dismissal of this action. Pursuant to the FLSA (and to the extent
18 required under state law), claims for back wages and other damages arising under the FLSA may
19 be settled or compromised with the approval of the district court or Secretary of Labor. See
20 *Lynn's Food Stores, Inc. v. United States*, 679 F.2d 1350, 1353-54 (11th Cir. 1982). To approve
21 the settlement, the Court should determine that the compromise is a fair and reasonable
22 resolution of a *bona fide* dispute over wages owed. *Id.*

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**JOINT MOTION TO APPROVE SETTLEMENT
AND DISMISS CASE - 2**
Case No. 2:17-cv-00663-JLR

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7. The Parties have agreed to settle all claims in this dispute through execution of this Agreement. While Ecolab does not admit liability or wrongdoing, all Parties agree and represent that, in accordance with the terms of the Agreement, Plaintiffs are receiving a reasonable and satisfactory recovery of alleged overtime damages, an equal amount representing liquidated damages, and payment of attorneys' fees and costs. Based on the contested nature of this litigation and the quality of the settlement, this Court should conclude that this Settlement is a reasonable resolution of a *bona fide* dispute. Thus, the Parties respectfully request that the Court approve the settlement and issue an Order dismissing this action with prejudice.

WHEREFORE, the Parties stipulate to the dismissal of this action, and respectfully request that the Court enter an Order approving the terms of the settlement of all of Plaintiffs' claims, and dismiss this action with prejudice, with each party to bear its own attorney's fees and costs, unless otherwise provided in the Parties' Agreement.

ORDER

It is so ordered. This action is dismissed with prejudice.

Dated this 22nd day of November, 2017.



JAMES L. ROBART
United States DISTRICT Judge

**JOINT MOTION TO APPROVE SETTLEMENT
AND DISMISS CASE - 3**
Case No. 2:17-cv-00663-JLR

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1 Dated: November 21, 2017

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10 ATTORNEYS FOR PLAINTIFFS

11 Dated: November 21, 2017

12 /s/ Breanne Sheetz Martell

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JOINT MOTION TO APPROVE SETTLEMENT
AND DISMISS CASE - 4
Case No. 2:17-cv-00663-JLR

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CERTIFICATE OF SERVICE

I am a resident of the State of Washington, over the age of eighteen years, and not a party to the within action. My business address is One Union Square, 600 University Street, Ste. 3200, Seattle, WA 98101. On November 21, 2017, I

ELECTRONICALLY FILED the foregoing document(s) with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on November 21, 2017, at Seattle, Washington.

s/ Sally Swearerger
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**JOINT MOTION TO APPROVE SETTLEMENT
AND DISMISS CASE - 5**
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